

MEETING MINUTES, BOARD OF ZONING APPEALS, SEPTEMBER 10, 2007

Present: Phil Tinkle, Mike Campbell, Shan Rutherford, Shawna Koons-Davis, City Attorney, William Peeples, Senior Planner; and Janice Nix, Recording Secretary

The meeting was called to order at 6:00 p.m. by Phil Tinkle, Chairman.

PREVIOUS MINUTES

August 27th – Rutherford moved to approve the minutes as mailed, seconded by Campbell. Vote for **approval** was unanimous, 3-0. **Motion carried.**

FINDINGS OF FACT

Docket V2007-017 – Dimensional Variance – Worthsville Rd. LLC

Campbell moved that in consideration of the statutory criteria that the Board adopt the written Findings of Fact, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2007-017, seconded by Rutherford. Vote for **approval** was unanimous, 3-0. **Motion carried.**

NEW BUSINESS

Docket V2007-018 – Dimensional Variance – Jared Jewelers– located at 729 W. County Line Rd. – request to allow 3 wall signs on the north, south and west facades (1 wall sign permitted); 2 wall signs on the east facade (1 wall sign permitted); and a ground sign with a height of 5’6” – Simon Property Group, owner; Green Sign Company, applicant, representing.

Sean Green, Green Sign Co. and Dan Burkee, Sterling Group, came forward and were sworn.

Wall Sign(s) Criteria:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community; **Answer:** The awnings and signs will be mounted with the standard hardware and be considered safe for the community. The signs are mounted accurately and correctly and are considered “safe”. The granting of this variance will not hurt or potentially cause harm to the city, in fact the more business the city gets the more it grows.
2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The granting of the variance will actually do the opposite and help the neighboring properties. For the driver unfamiliar with an area, readable and conspicuous signage clearly identifying a business is far from a nuisance, it is very helpful in safe way finding.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** The proposed signage is the standard for Jared Jewelry and in the past businesses have failed from improper signage. The business will ultimately fail if potential customers cannot find their location.
4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10 because the property is located outside the Airspace Overlay District and is located approx. 10,070 feet from the runway of the nearest public use airport.

Pole Sign Criteria:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community; **Answer:** The sign would be located out of the site lines of traffic at the intersection of the mall access drive with County Line Rd. This intersection is also signalized.
2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The granting of the variance will actually do the opposite and help the neighboring properties. For the driver unfamiliar with an area, readable and conspicuous signage clearly identifying a business is far from a nuisance, it is very helpful in safe way finding. The sign code ordinance allows a 400 sq. ft. sign and the proposed sign will be within the ordinance requirements.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** The proposed signage is the standard for Jared Jewelry and in the past businesses have failed from improper signage. The business will ultimately fail if potential customers cannot find their location. The denial of the request could lead to the location of a pole sign on the property which is opposite of the vision for the southern right-of-way of County Line Rd.
4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10 because the property is located outside the Airspace Overlay District and is located approx. 10,070 feet from the runway of the nearest public use airport.

Rutherford inquired about monument sign height in relation to how the strict application of the ordinance would create practical difficulty. He feels there will be signs on both sides of the building and that should be adequate. He stated he felt the monument sign does not need to be higher than allowed by the ordinance. Green responded that County Line is a very busy road and the speed limit is such that cars won't be able to see the sign if it is kept at the height allowed by the ordinance. Tinkle pointed out that a monument sign would be better than having a 35 ft high pole sign, which could be another option. The sign will be located at the northeast corner of property.

Rutherford moved that we admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, seconded by Campbell. Vote for **approval** was unanimous, 3-0. **Motion carried.**

Campbell moved that based on the evidence presented that the Board approve the granting of a dimensional variance to allow multiple wall signs for Jared Jewelers located at 729 W. County Line Rd., seconded by Rutherford. Vote for **approval** was unanimous, 3-0. **Motion carried.**

Rutherford moved that based on the evidence presented that the Board approve the granting of a dimensional variance to allow a ground sign with a height of 5'6" for Jared Jewelers located at 729 W. Smith Valley Rd., seconded by Campbell. Vote for **approval** was unanimous, 3-0. **Motion carried.**

Campbell moved that having considered the statutory criteria that we direct the City Attorney's Office to draft written Findings of Fact, regarding our decision approving all variance requests for Variance Petition Number V2007-018, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Rutherford. Vote for **approval** was unanimous, 3-0. **Motion carried.**

Docket V2007-019 - Use Variance - Cabela's – located on the se corner of County Line Rd. & I65 – request to provide for vehicle display; boat service, display and sales; recreational vehicle display; a dog kennel; sales and outdoor operations including the temporary display and sales of seasonal materials and merchandise; and a horse corral within the I65 Corridor Overlay District – Cabela's, owner; Michael Pipta, Callison, LLC, Applicant, representing.

Senior Planner Bill Peeples stated that the petitioner did not meet the public notice requirement in the Daily Journal. He asked that due to number of upcoming petitions this docket be continued to 6:00 p.m., prior to the Training Session, on September 24, 2007. Campbell moved to continue V2007-019 to September 24, 2007 at 6:00 p.m. at the Greenwood City Building, 2 N. Madison Avenue, Greenwood, IN, seconded by Rutherford. Vote for **approval** of the **continuance** was unanimous, 3-0. **Motion carried.**

Docket V2007-020 - Use Variance - Dukenet Communications Services – located at 821 W. Smith Valley Rd. – request to allow a 130' monopole wireless communication facility in an R-2 Residential zone – Duke Energy Indiana, owner; Dukenet Communications Services, applicant, representing.

Dan Turnpaugh, Duke Communications; Steve Carr, T-Mobile, and Brenton Goodrich, T-Mobile, came forward and were sworn.

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community. **Answer:** The appropriate engineering standards will be used to construct the monopole structure and accessory buildings to ensure the safety of adjoining residential and institutional uses.
2. **Criteria:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. **Answer:** The current use of the property is an electric substation; therefore, co-locating a monopole communication facility would not increase the impact on adjacent property than that of the impact of the current use.
3. **Criteria:** The need for the Variance arises from some condition peculiar to the property involved. **Answer:** The proposed site is improved with an electric substation, and it is preferable to co-locate utility providers in one general area than scatter them in several district sites.
4. **Criteria:** The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought. **Answer:** The strict application of the ordinance would not permit the location of this antenna in the area and serve as a communication node for the existing electric substation and also additional capacity for up to 4 other wireless communication providers.
5. **Criteria:** The approval does not interfere substantially with the Comprehensive Plan. **Answer:** While the plan proposes residential uses, the established use of the property as an electric substation supports the provisions of electricity to residential users just as the proposed antenna would enhance service to the wireless communication users in the area.

Campbell asked if everything will be contained within the designated area shown on the site plan. Turnpaugh stated it would be.

Robert Boosenbark, 837 Jennifer Dr., Greenwood, came forward and was sworn. His property is adjacent to the rear of this property. He is concerned about the proximity of the pole to his property.

Tinkle inquired if the items located on the pole with generate noise. He also inquired about the safety of the pole in relation to the height. What other sites in Greenwood did the petitioner consider and why did they decide on this site and not the others? Turnbaugh addressed those concerns with the members.

Rutherford moved that we admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, seconded by Campbell. Vote for **approval** was unanimous, 3-0. **Motion carried.**

Rutherford moved that based on the evidence presented that the Board approve the granting of a use variance to allow a 130' monopole antenna in an R-2 Residential zone located at 821 W. Smith Valley Rd., seconded by Campbell. Vote for **approval** was unanimous, 3-0. **Motion carried.**

Campbell moved that having considered the statutory criteria that we direct the City Attorney's Office to draft written Findings of Fact, regarding our decision approving Variance Petition Number V2007-020, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Rutherford. Vote for **approval** was unanimous, 3-0. **Motion carried.**

ANNOUNCEMENTS/REPORTS

Rutherford moved to adjourn, seconded by Campbell. Vote for **approval** was unanimous, 3-0. **Motion carried.** Meeting was adjourned at 6:55 p.m.

JANICE NIX
Recording Secretary

PHIL TINKLE
Chairman